

ESTTA Tracking number: **ESTTA559133**

Filing date: **09/12/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91198660
Party	Plaintiff Broadcom Corporation
Correspondence Address	SUSAN M NATLAND KNOBBE MARTENS OLSON BEAR LLP 2040 MAIN STREET, 14TH FLOOR RVINE, CA 92614 UNITED STATES efiling@kmob.com, pam.pascual@kmob.com
Submission	Motion for Sanctions
Filer's Name	Susan M. Natland
Filer's e-mail	efiling@knobbe.com
Signature	/susan m. natland/
Date	09/12/2013
Attachments	2013-09-12 - Motion for Sanctions - BROC.783M.pdf(129858 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Broadcom Corporation,
Opposer,

v.


Broadchip Technology Group Ltd.,
Applicant.

Opposition No.: 91198660
Subject Mark: BROADCHIP
Application No.: 77/855,572

I hereby certify that this correspondence is being transmitted by electronic mail to the Trademark Trial and Appeal Board through its web site located at <http://estta.uspto.gov> on

September 12, 2013

(Date)

 Susan M. Natland

MOTION FOR ENTRY OF SANCTIONS

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Dear Sir or Madam:

Pursuant to 37 CFR § 2.120(g)(1) Opposer, Broadcom Corporation ("Broadcom"), hereby moves for sanctions in the above-captioned opposition proceeding ("Opposition") on the basis that Applicant, Broadchip Technology Group Ltd. ("Applicant"), has failed to comply with the Trademark Trial and Appeal Board's (the "Board") Order dated August 9, 2013.

By way of background, on November 23, 2011, Broadcom filed a Motion to Compel ("Motion"), requesting that the Board issue an order compelling Applicant to immediately respond to Broadcom's outstanding written discovery without objection, produce requested documents, and produce properly noticed witnesses for oral deposition in this matter. Broadcom filed the Motion after months of good faith attempts to resolve Applicant's persistent failure to respond to Broadcom's discovery requests and repeated refusals to produce properly noticed witnesses for deposition. On August 9, 2013, the Board granted the Motion, and ordered Applicant to no later than September 8, 2013 (*i.e.*, thirty days from the date of the Order): (i) serve its responses, without

objection, to Broadcom's written discovery; (ii) produce its documents; and (iii) produce its witnesses for oral deposition (collectively referred to herein as "Discovery Responses").

As of the filing of this subject Motion, however, Broadcom has not received the ordered Discovery Responses from Applicant. Accordingly, Applicant has failed to comply with the Board's Order.

Pursuant to 37 CFR § 2.120(g)(1), it is proper for the Board to enter an order for sanctions if a party fails to comply with an order of the Board relating to disclosures or discovery. The sanctions which may be entered by the Board include entering judgment against the disobedient party. 37 CFR § 2.120(g)(1) and Rule 37(b)(2) of the Federal Rules of Civil Procedure. Broadcom submits that entry of judgment against Applicant in this matter is the only appropriate sanction.

Broadcom has opposed registration of Applicant's BROADCHIP mark because: (i) Applicant's mark is likely to cause confusion with Broadcom's well-known BROADCOM trademark and family of "BROAD" marks including BROADCORE, BROADRANGE, and BROADVOICE (collectively "Broadcom Marks"); and (ii) Applicant's mark will dilute or is likely to cause dilution of the distinctive quality of the Broadcom Marks. Indeed, Applicant has systematically and intentionally adopted a branding strategy designed to take advantage of the goodwill in the Broadcom Marks and Broadcom's overall branding strategy. To prove its case, Broadcom must obtain discovery related to (among other issues) Applicant's adoption, use, and intended use of the opposed mark, as well as its knowledge of Broadcom and the Broadcom Marks. Applicant's complete refusal to provide any Discovery Responses severely prejudices Broadcom's ability to prove its claims against Applicant in the Opposition.

Applicant has continued to flout the Board's rules and authority in this matter. Applicant's blatant failure to take the required action as clearly set forth in the Order, combined with its prior complete failure over and over again to meet required deadlines despite reminders and the good faith efforts of Broadcom, supports the entry of judgment against Applicant in this matter.

For the reasons set forth above, Broadcom respectfully requests that the Board enter judgment in favor of Broadcom in this matter. If the Board does not enter judgment in favor of Broadcom, Broadcom requests that the Board enter sanctions which it deems are appropriate.

Broadcom further requests that these proceedings be suspended until the Board enters its ruling on this motion.

Respectfully submitted,
KNOBBE, MARTENS, OLSON & BEAR, LLP

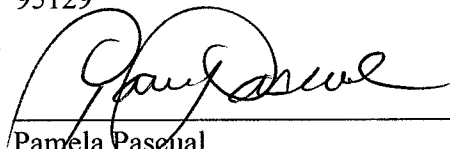
Dated: September 12, 2013

By: _____
Susan M. Natland
Lynda J. Zadra-Symes
2040 Main Street, Fourteenth Floor
Irvine, CA 92614
(949) 760-0404
Attorneys for Opposer,
Broadcom Corporation

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing **MOTION FOR ENTRY OF SANCTIONS** by depositing one copy thereof in the United States Mail, first-class postage prepaid, on September 12, 2013, addressed as follows:

Kathy Geng
Secretary
Broadchip Technology Group Ltd.
1008 Strayer Drive
San Jose, CA 95129



Pamela Pascual
Trademark Paralegal

16193475/091113